

Remarks

This Amendment is being submitted in response to several telephone conversations with the Examiner in December 2008 and in connection with the Office Action mailed on January 22, 2009.

Related Applications

Applicants would like to advise the Examiner about related applications 11/440,569 and 10/675,300 (abandoned).

Interview Summaries and Claim Amendments and Office Action

The undersigned attorney thanks the Examiner for the telephone call on December 12, 2008 wherein the Examiner requested the deletion of the phrase "and up to two oxo groups" and the addition of the phrase "or sulfur" in claim 1.

The undersigned attorney also thanks the Examiner for the telephone call on December 30, 2008 where the Examiner requested the deletion of the term "prodrugs" from the claims. Also, the Examiner indicated that he was contemplating raising a lack of enablement rejection with respect to claim 6. Specifically, the Examiner said that the specification did not contain any examples where G was an aromatic heteromonocyclic.

On January 22, 2009, an Office Action was mailed in the above-identified application. In this Office Action, claims 1 and 6 were rejected under 35 USC Section 112, second paragraph as being indefinite. Specifically, the Examiner argues that these claims are drawn to 5 or 6 membered aromatic heterocycles consisting of up to 2 oxo groups where more than one of the heteroatoms is an oxygen. In view of this, the structure encompassed by the heteroaromatic compounds was unclear.

In view of this rejection, Applicants have amended this claim as suggested by the Examiner during the December 12, 2008 telephone call. In view of these claim amendments, this rejection is now believed to be moot and should be withdrawn.

The Examiner also objects to the variable R5 saying that it is defined in a confusing manner. While not agreeing with the Examiner, in order to expedite prosecution, Applicants have, in claims 1 and 6, amended the description of R5 in connection with this objection and further in connection with the Examiner's "contemplated" enablement rejection raised during the telephone call on December 30, 2008.

This portion of claims 1 and 6 has been amended to read as follows: “provided that if W is a bond, then X is NR⁵⁴, NR⁵⁴-CO or NR⁵⁴-SO₂, or if W is a bond, then X and Y are a bond and Z is NR⁵¹R⁵² or E, where E is an unsaturated, saturated or partially unsaturated mono-, bi- or tricyclic ring having a maximum of 14 carbon atoms and 1 to 5 nitrogen atoms, and 0 to 2 oxygen atoms and/or 0 to 2 sulfur atoms, which ring may comprise up to two oxo groups and may be substituted by radicals R³⁵, R³⁶, R³⁷ and/or up to three radicals R⁵³, and which ring is bound via a nitrogen ring atom to the remainder of the molecule”. No new matter has been added as a result of this amendment. With the amendment of claims 1 and 6 to include this proviso, Applicants respectfully direct the Examiner’s attention to Examples 270-286, 289, 306, 311, 312, 318, 321, 324, 347, 349, 350, 354, and 358, where G is thienyl or pyridyl and thus a heteromonocyclic aromatic ring. Therefore, in view of this amendment, Applicants submit that the objection is moot and that the claims are enabled by the specification.

Despite the “contemplated” enablement rejection mentioned by the Examiner during the call on December 30, 2008, the Examiner did in fact reject claims 1 and 6 under 35 USC Section 112, first paragraph, as not being enabled by the specification. Specifically, the Examiner rejected the claims arguing that the specification does not reasonably provide enablement for prodrugs of the compounds having the recited formula. While not agreeing with the Examiner, in connection with this rejection and the Examiner’s request made during the telephone call on December 30, 2008, this term has been deleted from the claims. Therefore, this rejection is now moot and should be withdrawn.

REQUEST FOR RECONSIDERATION

Reconsideration is respectfully requested. Applicants believe that the present application is in condition for allowance. Should the Examiner have any questions or would like to discuss any matters in connection with the present application, the Examiner is invited to contact the undersigned at

Polsinelli Shugart

Two Prudential Plaza
180 N. Stetson Avenue, Suite 4525
Chicago, IL 60601
(312)-873-3632 (Phone)
(312)-873-2932 (Fax)
lmuellet@polsinelli.com

Date:

Direct telephone calls to:

Respectfully submitted,

/Lisa V. Mueller/

Lisa V. Mueller
Attorney for Applicant
Reg. No. 38,978
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312.873.3632